

APPEAL FROM ORDER No 448 of 1999

Hon'ble MR.JUSTICE A.R.DAVE

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5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5: No

[illegible]

Versus

THAKORBHAI BHIKHABHAI

MR DR DHIMAR for Petitioner

MR DHIRENDRA MEHTA for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

ORAL JUDGEMENT

Admit.

Heard learned advocate Shri Dhimar for the

appellant-plaintiff and learned advocate Shri D.K. Mehta who appears on caveat for the respondents. With consent of the learned advocates, the appeal is finally heard today.

Looking to the facts of the case and in view of claim made by the appellant-plaintiff in respect of her share in the land belonging to her father late Shri Bhikhabhai Bhagabhai, it would be just and proper to see that the suit property is not permitted to be disposed of during pendency of the suit. The learned advocates have agreed that if the respondents are desirous of selling or disposing of the suit property, they will do so only after obtaining permission of the trial court and in that event, the trial court shall pass an appropriate order with regard to the sale proceeds which might be received by the present defendants. Needless to say that the appellant-plaintiff is not in possession of the land in question and by virtue of this order right of the respondents-defendants with regard to cultivation of the land in question shall not be adversely affected. The appellant-plaintiff shall not have any right to enter the land in question during pendency of the suit.

The above-referred observations are only tentative and they shall not be taken into consideration while disposing of the suit because still the evidence is to be led and I am sure that the trial court shall decide the matter only after considering the entire evidence which might be led before it.

Learned advocates have assured this court that the litigants shall extend their full co-operation in conduct of the trial. In the circumstances it is also directed that hearing of the suit shall be expedited.

In view of the above order, the appeal is partly allowed with no order as to costs.

(hn)